

PUBLIC CHAPTER NO. 1046

HOUSE BILL NO. 3143

By Representatives John DeBerry, Hardaway

Substituted for: Senate Bill No. 3536

By Senators Herron, Marrero, Burks

AN ACT to amend Tennessee Code Annotated, Section 37-2-409, relative to permanency hearings for children in foster care.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 37-2-409, is amended by deleting the section in its entirety, and by substituting instead the following:

(a)

(1) In addition to the other requirements of this part, the judge or referee shall hold a hearing within twelve (12) months of the date of foster care placement for each child in foster care. As long as a child remains in foster care, subsequent permanency hearings conducted pursuant to subsection (b) shall be held no less frequently than every twelve (12) months for each child, or as otherwise required by federal regulations and notwithstanding subsection (b)(4).

(2) The child shall be present for the permanency hearing. The court shall confer with the child, who is able to communicate, in an age appropriate manner regarding the child's views on the provisions of the permanency plan developed for the child. For all children, absent or present, evidence shall be presented as to the child's progress and needed services. The only exceptions to the child's mandatory attendance shall be a child who is under a doctor's care preventing the child from attending or is placed out of the state. In such event, the court shall require the guardian ad litem, case manager for the department or other case manager of the child to attest that the child participated in the development of the permanency plan or has been counseled on the provisions of the permanency plan, if age appropriate. In the child's absence, evidence shall be presented as to the child's progress and needed services. To the extent practicable, the court shall schedule such hearings at times intended to be minimally disruptive to daily activities of the child.

(b)

(1) In an effort to achieve early permanency, the purpose of these permanency hearings shall be to review the permanency plan and goals for the child. The hearings and plan shall address which goals continue to be appropriate for the child in order to achieve permanent placement and shall include a timeline for achieving each goal. Possible goals include:

- (A) Return of the child to parent;
- (B) Permanent placement with a fit and willing relative or relatives;
- (C) Adoption, giving appropriate consideration to § 36-1-115(g) when applicable;
- (D) Permanent guardianship; or
- (E) Planned permanent living arrangement.

(2) Placement in another planned permanent living arrangement shall only be appropriate in cases where the state agency has documented a compelling reason for determining that the other goals would not be in the best interests of the child because of the child's special needs or circumstances.

(3) The purpose of these permanency hearings shall also be to determine the extent of compliance of all parties with the terms of the permanency plan, and the extent of progress in achieving the goals of the plan

(4) In the case of a child who has reached sixteen (16) years of age, the court shall review and ratify an independent living plan for the child. At the hearing for a child who has reached the age of seventeen (17), the court shall ensure, and the record shall reflect, that the child has notice of and understands the child's opportunity to receive, if eligible, all available voluntary post-custody services from the department by having the department present evidence regarding services that are available to the child beginning at the age of eighteen (18). Three (3) months prior to the planned release of a child at age seventeen (17) or older, a permanency hearing shall be held for the purposes of reviewing the child's transition plan to independent living.

(5) At this hearing, all evidence that would be admissible at a permanency hearing pursuant to § 37-1-129 shall be admissible. In the event the court finds that any party has not complied with the terms of the permanency plan for the child, it may, consistent with §§ 37-1-129(e) and 37-2-403(c), issue such orders as may be appropriate to enforce compliance. Parental rights may not be terminated, except in accordance with a petition

filed for that purpose and filed pursuant to title 36, chapter 1, part 1 or this part.

(c) If a hearing is held concerning a child in the juvenile court, or any other court, on a custody petition, petition to terminate parental rights, or for any other reason that addresses the issues in subsection (b), this hearing shall satisfy the requirement for a hearing for that child. If a hearing is not otherwise scheduled, the court shall automatically schedule a hearing for each child in foster care in a timely fashion to ensure that the hearing is held within the time provided in subsection (a).

(d) This section shall not be construed to prevent a judge from holding hearings more frequently if the judge deems it necessary.

SECTION 2. This act shall take effect on July 1, 2008, the public welfare requiring it.

PASSED: May 13, 2008


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


RON RAMSEY, SPEAKER
SENATE OF THE SENATE

APPROVED this 28th day of May 2008


PHIL BREDESEN, GOVERNOR